

SECOND REGULAR SESSION

SENATE BILL NO. 898

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CLEMENS.

Pre-filed December 21, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

3929S.01I

AN ACT

To repeal sections 135.800, 135.805, 142.028, 260.546, 261.035, 261.230, 261.235, 261.239, 263.232, 265.200, 348.430, 348.432, 348.505, 414.012, 414.032, 414.042, 414.052, 414.112, 414.122, and 414.420, RSMo, and to enact in lieu thereof twenty-five new sections relating to the administration of agriculture incentives and programs.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 135.800, 135.805, 142.028, 260.546, 261.035, 261.230, 261.235, 261.239, 263.232, 265.200, 348.430, 348.432, 348.505, 414.012, 414.032, 414.042, 414.052, 414.112, 414.122, and 414.420, are repealed and twenty-five new sections enacted in lieu thereof, to be known as sections 135.633, 135.800, 135.805, 142.028, 144.053, 144.063, 260.546, 261.035, 261.230, 261.235, 261.239, 263.232, 265.200, 348.230, 348.235, 348.430, 348.432, 348.505, 414.012, 414.032, 414.042, 414.052, 414.112, 414.122, and 414.420, to read as follows:

135.633. 1. As used in this section, the following terms mean:

(1) "Authority", the Missouri agricultural and small business development authority;

(2) "Eligible expenses", the actual cost to a producer of implementing odor abatement best management practices and systems necessary to achieve MELO accreditation from the department of agriculture. Eligible expenses includes the actual cost of implementing odor abatement best management practices and systems necessary to meet preferred environmental practices. All eligible expenses shall be less any federal or other state incentives;

(3) "MELO", managed environment livestock operation;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

12 (4) "Odor abatement best management practices", best
13 management practices as established by the department of natural
14 resources and the department of agriculture;

15 (5) "Preferred environmental practice", those odor abatement
16 best management practices which exceed the criteria for MELO
17 accreditation;

18 (6) "Producer", a person, partnership, corporation, trust, or
19 limited liability company who is a Missouri resident and whose primary
20 purpose is agriculture production;

21 (7) "Tax credit", a credit against the tax otherwise due under
22 chapter 143, RSMo, excluding withholding tax imposed by sections
23 143.191 to 143.265, RSMo, or otherwise due under chapter 147, 148, or
24 153, RSMo;

25 (8) "Taxpayer", any individual or entity subject to the tax
26 imposed in chapter 143, RSMo, excluding withholding tax imposed by
27 sections 143.191 to 143.265, RSMo, or the tax imposed in chapter 147,
28 148, or 153, RSMo.

29 2. For all taxable years beginning on or after January 1, 2008, a
30 taxpayer shall be allowed a tax credit for the eligible costs of
31 implementing odor abatement best management practices and
32 systems. The authority shall establish a managed environment
33 livestock operation odor abatement tax credit program for
34 producers. The maximum cumulative tax credit amount per taxpayer
35 shall be equal to:

36 (1) The lesser of fifty percent of the eligible expenses for
37 implementing odor abatement best management practices and systems
38 necessary to achieve MELO accreditation from the department of
39 agriculture and/or basic infrastructure to increase the setback from the
40 property line, or fifty thousand dollars; or

41 (2) The lesser of seventy-five percent of the eligible expenses for
42 implementing odor abatement best management practices and systems
43 necessary to meet preferred environmental practices and/or basic
44 infrastructure to increase the setback from the property line, or
45 seventy-five thousand dollars.

46 3. If the amount of the tax credit issued exceeds the amount of
47 the taxpayer's state tax liability for the tax year for which the credit is
48 claimed, the difference shall not be refundable but may be carried back

49 to any of the taxpayer's three prior taxable years and carried forward
50 to any of the taxpayer's five subsequent taxable years regardless of the
51 type of tax liability to which such credits are applied as authorized
52 under subsection 4 of this section. Tax credits granted under this
53 section may be transferred, sold, or assigned. Whenever a certificate
54 of tax credit is assigned, transferred, sold, or otherwise conveyed, a
55 notarized endorsement shall be filed with the authority specifying the
56 name and address of the new owner of the tax credit or the value of the
57 credit. The cumulative amount of tax credits which may be issued
58 under this section in any one fiscal year shall not exceed three hundred
59 thousand dollars.

60 4. Producers may receive a credit against the tax or estimated
61 quarterly tax otherwise due under chapter 143, RSMo, other than taxes
62 withheld under sections 143.191 to 143.265, RSMo, or chapter 147 or 148,
63 RSMo.

64 5. Tax credits claimed in a taxable year may be done so on a
65 quarterly basis and applied to the estimated quarterly tax otherwise
66 due under subsection 4 of this section. If a quarterly tax credit claim
67 or series of claims contributes to causing an overpayment of taxes for
68 a taxable year, such overpayment shall not be refunded but shall be
69 applied to the next taxable year.

70 6. A producer shall submit to the authority an application for tax
71 credit allocation before any eligible expenses are expended. The
72 authority may promulgate rules establishing eligibility under this
73 section, taking into consideration:

- 74 (1) The potential for significant odor reduction;
75 (2) The producer's ability to provide funding for the
76 implementation of odor abatement best management practices;
77 (3) The implementation of proven odor abatement technologies;
78 and
79 (4) Such other factors as the authority may establish.

80 7. The authority may impose a one-time application fee of one-
81 fourth of one percent which shall be collected at the time of the tax
82 credit issuance.

83 8. Ninety percent of the tax credits authorized under this section
84 shall initially be issued to producers for MELO accreditation projects
85 in any fiscal year. If any portion of the ninety percent of tax credits

86 offered to producers for MELO accreditation projects is unused as of
87 March first in any fiscal year, the unused portion of tax credits may be
88 offered to producers for preferred environmental practices.

89 9. If any portion of the ten percent of tax credits offered to
90 producers for preferred environmental practices projects is unused as
91 of March first in any fiscal year, the unused portion of tax credits may
92 be offered to approved MELO accreditation projects.

93 10. Any odor abatement tax credit not issued by June thirtieth
94 of each fiscal year shall expire.

95 11. The department of agriculture shall promulgate rules to
96 create a MELO accreditation program. The program shall establish
97 criteria for meeting MELO accreditation. The provisions of subsections
98 1 to 10 of this section shall only become effective upon the joint
99 committee on administrative rules fulfilling its responsibilities under
100 chapter 536, RSMo, and the rules becoming effective. The joint
101 committee on administrative rules shall notify the revisor of statutes
102 once the rules have become effective. Any rule or portion of a rule, as
103 that term is defined in section 536.010, RSMo, that is created under the
104 authority delegated in this section shall become effective only if it
105 complies with and is subject to all of the provisions of chapter 536,
106 RSMo, and, if applicable, section 536.028, RSMo. This section and
107 chapter 536, RSMo, are nonseverable and if any of the powers vested
108 with the general assembly pursuant to chapter 536, RSMo, to review, to
109 delay the effective date, or to disapprove and annul a rule are
110 subsequently held unconstitutional, then the grant of rulemaking
111 authority and any rule proposed or adopted after August 28, 2008, shall
112 be invalid and void.

113 12. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

114 (1) The provisions of the new program authorized under this
115 section shall sunset automatically three years after the effective date
116 of this section unless reauthorized by an act of the general assembly;
117 and

118 (2) If such program is reauthorized, the program authorized
119 under this section shall sunset automatically three years after the
120 effective date of the reauthorization of this section; and

121 (3) This section shall terminate on September first of the
122 calendar year immediately following the calendar year in which the

123 **program authorized under this section is sunset.**

135.800. 1. The provisions of sections 135.800 to 135.830 shall be known
2 and may be cited as the "Tax Credit Accountability Act of 2004".

3 2. As used in sections 135.800 to 135.830, the following terms mean:

4 (1) "Administering agency", the state agency or department charged with
5 administering a particular tax credit program, as set forth by the program's
6 enacting statute; where no department or agency is set forth, the department of
7 revenue;

8 (2) "Agricultural tax credits", the agricultural product utilization
9 contributor tax credit created pursuant to section 348.430, RSMo, the new
10 generation cooperative incentive tax credit created pursuant to section 348.432,
11 RSMo, **the family farm breeding livestock loan tax credit created under**
12 **section 348.505, RSMo**, and the wine and grape production tax credit created
13 pursuant to section 135.700;

14 (3) "All tax credit programs", the tax credit programs included in the
15 definitions of agricultural tax credits, business recruitment tax credits,
16 community development tax credits, domestic and social tax credits,
17 entrepreneurial tax credits, environmental tax credits, housing tax credits,
18 redevelopment tax credits, and training and educational tax credits;

19 (4) "Business recruitment tax credits", the business facility tax credit
20 created pursuant to sections 135.110 to 135.150 and section 135.258, the
21 enterprise zone tax benefits created pursuant to sections 135.200 to 135.270, the
22 business use incentives for large-scale development programs created pursuant
23 to sections 100.700 to 100.850, RSMo, the development tax credits created
24 pursuant to sections 32.100 to 32.125, RSMo, the rebuilding communities tax
25 credit created pursuant to section 135.535, and the film production tax credit
26 created pursuant to section 135.750;

27 (5) "Community development tax credits", the neighborhood assistance tax
28 credit created pursuant to sections 32.100 to 32.125, RSMo, the family
29 development account tax credit created pursuant to sections 208.750 to 208.775,
30 RSMo, the dry fire hydrant tax credit created pursuant to section 320.093, RSMo,
31 and the transportation development tax credit created pursuant to section
32 135.545;

33 (6) "Domestic and social tax credits", the youth opportunities tax credit
34 created pursuant to section 135.460 and sections 620.1100 to 620.1103, RSMo, the
35 shelter for victims of domestic violence created pursuant to section 135.550, the

36 senior citizen or disabled person property tax credit created pursuant to sections
37 135.010 to 135.035, the special needs adoption tax credit created pursuant to
38 sections 135.325 to 135.339, the maternity home tax credit created pursuant to
39 section 135.600, and the shared care tax credit created pursuant to section
40 660.055, RSMo;

41 (7) "Entrepreneurial tax credits", the capital tax credit created pursuant
42 to sections 135.400 to 135.429, the certified capital company tax credit created
43 pursuant to sections 135.500 to 135.529, the seed capital tax credit created
44 pursuant to sections 348.300 to 348.318, RSMo, the new enterprise creation tax
45 credit created pursuant to sections 620.635 to 620.653, RSMo, the research tax
46 credit created pursuant to section 620.1039, RSMo, the small business incubator
47 tax credit created pursuant to section 620.495, RSMo, the guarantee fee tax credit
48 created pursuant to section 135.766, and the new generation cooperative tax
49 credit created pursuant to sections 32.105 to 32.125, RSMo;

50 (8) "Environmental tax credits", the charcoal producer tax credit created
51 pursuant to section 135.313, the wood energy tax credit created pursuant to
52 sections 135.300 to 135.311, and the manufacturing and recycling flexible
53 cellulose casing tax credit created pursuant to section 260.285, RSMo;

54 (9) "Housing tax credits", the neighborhood preservation tax credit created
55 pursuant to sections 135.475 to 135.487, the low-income housing tax credit
56 created pursuant to sections 135.350 to 135.363, and the affordable housing tax
57 credit created pursuant to sections 32.105 to 32.125, RSMo;

58 (10) "Recipient", the individual or entity who is the original applicant for
59 and who receives proceeds from a tax credit program directly from the
60 administering agency, the person or entity responsible for the reporting
61 requirements established in section 135.805;

62 (11) "Redevelopment tax credits", the historic preservation tax credit
63 created pursuant to sections 253.545 to 253.561, RSMo, the brownfield
64 redevelopment program tax credit created pursuant to sections 447.700 to
65 447.718, RSMo, the community development corporations tax credit created
66 pursuant to sections 135.400 to 135.430, the infrastructure tax credit created
67 pursuant to subsection 6 of section 100.286, RSMo, the bond guarantee tax credit
68 created pursuant to section 100.297, RSMo, and the disabled access tax credit
69 created pursuant to section 135.490;

70 (12) "Training and educational tax credits", the community college new
71 jobs tax credit created pursuant to sections 178.892 to 178.896, RSMo, the skills

72 development account tax credit created pursuant to sections 620.1400 to
73 620.1460, RSMo, the mature worker tax credit created pursuant to section
74 620.1560, RSMo, and the sponsorship and mentoring tax credit created pursuant
75 to section 135.348.

135.805. 1. A recipient of a community development tax credit shall
2 annually, for a period of three years following issuance of tax credits, provide to
3 the administering agency information confirming the title and location of the
4 corresponding project, the estimated or actual time period for completion of the
5 project, and all geographic areas impacted by the project.

6 2. A recipient of a redevelopment tax credit shall annually, for a period
7 of three years following issuance of tax credits, provide to the administering
8 agency information confirming whether the property is used for residential,
9 commercial, or governmental purposes, and the projected or actual project cost,
10 labor cost, and date of completion.

11 3. A recipient of a business recruitment tax credit shall annually, for a
12 period of three years following issuance of tax credits, provide to the
13 administering agency information confirming the category of business by size, the
14 address of the business headquarters and all offices located within this state, the
15 number of employees at the time of the annual update, an updated estimate of
16 the number of employees projected to increase as a result of the completion of the
17 project, and the estimated or actual project cost.

18 4. A recipient of a training and educational tax credit shall annually, for
19 a period of three years following issuance of tax credits, provide to the
20 administering agency information confirming the name and address of the
21 educational institution used, the average salary of workers served as of such
22 annual update, the estimated or actual project cost, and the number of employees
23 and number of students served as of such annual update.

24 5. A recipient of a housing tax credit shall annually, for a period of three
25 years following issuance of tax credits, provide to the administering agency
26 information confirming the address of the property, the fair market value of the
27 property, as defined in subsection 6 of section 135.802, and the projected or actual
28 labor cost and completion date of the project.

29 6. A recipient of an entrepreneurial tax credit shall annually, for a period
30 of three years following issuance of tax credits, provide to the administering
31 agency information confirming the amount of investment and the names of the
32 project, fund, and research project.

33 7. A recipient of an agricultural tax credit shall annually, for a period of
34 three years following issuance of tax credits, provide to the administering agency
35 information confirming the type of agricultural commodity, the amount of
36 contribution, the type of equipment purchased, and the name and description of
37 the facility, except that if the agricultural credit is issued as a result of a
38 producer member investing in a new generation processing entity **or new**
39 **generation cooperative** then the new generation processing entity **or new**
40 **generation cooperative**, and not the recipient, shall annually, for a period of
41 three years following issuance of tax credits, provide to the administering agency
42 information confirming the type of agricultural commodity, the amount of
43 contribution, the type of equipment purchased, and the name and description of
44 the facility.

45 8. A recipient of an environmental tax credit shall annually, for a period
46 of three years following issuance of tax credits, provide to the administering
47 agency information detailing any change to the type of equipment purchased, if
48 applicable, and any change to any environmental impact statement, if such
49 statement is required by state or federal law.

50 9. The reporting requirements established in this section shall be due
51 annually on June thirtieth of each year. No person or entity shall be required to
52 make an annual report until at least one year after the credit issuance date.

53 10. Where the sole requirement for receiving a tax credit in the enabling
54 legislation of any tax credit is an obligatory assessment upon a taxpayer or a
55 monetary contribution to a particular group or entity, the reporting requirements
56 provided in this section shall apply to the recipient of such assessment or
57 contribution and shall not apply to the assessed nor the contributor.

58 11. Where the enacting statutes of a particular tax credit program or the
59 rules of a particular administering agency require reporting of information that
60 includes the information required in sections 135.802 to 135.810, upon reporting
61 of the required information, the applicant shall be deemed to be in compliance
62 with the requirements of sections 135.802 to 135.810. The administering agency
63 shall notify in writing the department of economic development of the
64 administering agency's status as custodian of any particular tax credit program
65 and that all records pertaining to the program are available at the administering
66 agency's office for review by the department of economic development.

67 12. The provisions of subsections 1 to 10 of this section shall apply
68 beginning on June 30, 2005.

142.028. 1. As used in this section, the following terms mean:

2 (1) "Fuel ethanol", [one hundred ninety-eight proof ethanol denatured in
3 conformity with the United States Bureau of Alcohol, Tobacco and Firearms'
4 regulations and fermented and distilled in a facility whose principal (over fifty
5 percent) feed stock is cereal grain or cereal grain by-products] **a fuel which
6 meets ASTM International specification number D 4806 or subsequent
7 specifications for blending with gasoline for use as automotive spark-
8 ignition engine fuel and where the ethanol is made from cereal grains,
9 cereal grain by-products, or qualified biomass;**

10 (2) "Fuel ethanol blends", a mixture of ninety percent gasoline and ten
11 percent fuel ethanol in which the gasoline portion of the blend or the finished
12 blend meets the [American Society for Testing and Materials -] **ASTM
13 International** specification number [D-439] **D 4814;**

14 (3) "Missouri qualified fuel ethanol producer", any producer of fuel ethanol
15 whose principal place of business and facility for the fermentation and distillation
16 of fuel ethanol is located within the state of Missouri and is at least fifty-one
17 percent owned by agricultural producers actively engaged in agricultural
18 production for commercial purposes, and which has made formal application,
19 posted a bond, and conformed to the requirements of this section;

20 (4) **"Professional forester", any individual who holds a bachelor
21 of science degree in forestry from a regionally accredited college or
22 university with a minimum of two years of professional forest
23 management experience;**

24 (5) **"Qualified biomass", any agriculture-derived organic material
25 or any wood-derived organic material harvested in accordance with a
26 site specific forest management plan focused for long-term forest
27 sustainability developed by a professional forester and qualified, in
28 consultation with the conservation commission, by the Missouri
29 agricultural and small business development authority.**

30 2. The "Missouri Qualified Fuel Ethanol Producer Incentive Fund" is
31 hereby created and subject to appropriations shall be used to provide economic
32 subsidies to Missouri qualified fuel ethanol producers pursuant to this
33 section. The director of the department of agriculture shall administer the fund
34 pursuant to this section.

35 3. A Missouri qualified fuel ethanol producer shall be eligible for a
36 monthly grant from the fund, except that a Missouri qualified fuel ethanol

37 producer shall only be eligible for the grant for a total of sixty months unless
38 such producer during those sixty months failed, due to a lack of appropriations,
39 to receive the full amount from the fund for which they were eligible, in which
40 case such producers shall continue to be eligible for up to twenty-four additional
41 months or until they have received the maximum amount of funding for which
42 they were eligible during the original sixty-month time period. The amount of the
43 grant is determined by calculating the estimated gallons of qualified fuel ethanol
44 production to be produced from Missouri agricultural products **or qualified**
45 **biomass** for the succeeding calendar month, as certified by the department of
46 agriculture, and applying such figure to the per-gallon incentive credit
47 established in this subsection. Each Missouri qualified fuel ethanol producer
48 shall be eligible for a total grant in any fiscal year equal to twenty cents per
49 gallon for the first twelve and one-half million gallons of qualified fuel ethanol
50 produced from Missouri agricultural products **or qualified biomass** in the fiscal
51 year plus five cents per gallon for the next twelve and one-half million gallons of
52 qualified fuel ethanol produced from Missouri agricultural products **or qualified**
53 **biomass** in the fiscal year. All such qualified fuel ethanol produced by a
54 Missouri qualified fuel ethanol producer in excess of twenty-five million gallons
55 shall not be applied to the computation of a grant pursuant to this
56 subsection. The department of agriculture shall pay all grants for a particular
57 month by the fifteenth day after receipt and approval of the application described
58 in subsection 4 of this section. If actual production of qualified fuel ethanol
59 during a particular month either exceeds or is less than that estimated by a
60 Missouri qualified fuel ethanol producer, the department of agriculture shall
61 adjust the subsequent monthly grant by paying additional amount or subtracting
62 the amount in deficiency by using the calculation described in this subsection.

63 4. In order for a Missouri qualified fuel ethanol producer to obtain a grant
64 from the fund for a particular month, an application for such funds shall be
65 received no later than fifteen days prior to the first day of the month for which
66 the grant is sought. The application shall include:

- 67 (1) The location of the Missouri qualified fuel ethanol producer;
- 68 (2) The average number of citizens of Missouri employed by the Missouri
69 qualified fuel ethanol producer in the preceding quarter, if applicable;
- 70 (3) The number of bushels of Missouri agricultural commodities **or green**
71 **weight tons of qualified biomass** used by the Missouri qualified fuel ethanol
72 producer in the production of fuel ethanol in the preceding quarter;

73 (4) The number of gallons of qualified fuel ethanol the producer expects
74 to manufacture during the month for which the grant is applied;

75 (5) A copy of the qualified fuel ethanol producer license required pursuant
76 to subsection 5 of this section, name and address of surety company, and amount
77 of bond to be posted pursuant to subsection 5 of this section; and

78 (6) Any other information deemed necessary by the department of
79 agriculture to adequately ensure that such grants shall be made only to Missouri
80 qualified fuel ethanol producers.

81 5. The director of the department of agriculture, in consultation with the
82 department of revenue **and the department of conservation**, shall promulgate
83 rules and regulations necessary for the administration of the provisions of this
84 section. The director shall also establish procedures for bonding Missouri
85 qualified fuel ethanol producers. Each Missouri qualified fuel ethanol producer
86 who attempts to obtain moneys pursuant to this section shall be bonded in an
87 amount not to exceed the estimated maximum monthly grant to be issued to such
88 Missouri qualified fuel ethanol producer.

89 6. Any rule or portion of a rule, as that term is defined in section 536.010,
90 RSMo, that is created under the authority delegated in this section shall become
91 effective only if it complies with and is subject to all of the provisions of chapter
92 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter
93 536, RSMo, are nonseverable and if any of the powers vested with the general
94 assembly pursuant to chapter 536, RSMo, to review, to delay the effective date
95 or to disapprove and annul a rule are subsequently held unconstitutional, then
96 the grant of rulemaking authority and any rule proposed or adopted after August
97 28, 2002, shall be invalid and void.

98 **7. Beginning January 1, 2009, through December 31, 2019, the**
99 **economic subsidies provided under this section to Missouri qualified**
100 **fuel ethanol producers of fuel ethanol made from qualified biomass**
101 **shall not exceed one million dollars per year. Prior to January 1, 2009,**
102 **and after December 31, 2019, Missouri qualified fuel ethanol producers**
103 **of fuel ethanol made from qualified biomass shall be ineligible for**
104 **economic subsidies under this section.**

144.053. 1. As used in this section, "machinery and equipment"
2 means new or used farm tractors and such other new or used
3 machinery and equipment and repair or replacement parts thereon,
4 and supplies and lubricants used exclusively, solely, and directly for

5 the planting, harvesting, processing, or transporting of a forestry
6 product, and the purchase of motor fuel, as defined in section 142.800,
7 RSMo, therefor which is:

8 (1) Used exclusively for forestry purposes;

9 (2) Used on land owned or leased for the purpose of planting,
10 harvesting, processing, or transporting forestry products; and

11 (3) Used directly in planting, harvesting, processing, or
12 transporting forestry products.

13 2. Notwithstanding any other provision of law to the contrary,
14 for purposes of department of revenue administrative interpretation,
15 all machinery and equipment used solely for the planting, harvesting,
16 processing, or transporting of a forestry product shall be considered
17 farm machinery, and shall be exempt from state and local sales and use
18 tax, as provided for other farm machinery in section 144.030.

144.063. 1. In addition to all other exemptions granted under
2 this chapter, there is also specifically exempted from the provisions of
3 the local sales tax law as defined in section 32.085, RSMo, section
4 238.235, RSMo, and sections 144.010 to 144.761 and from the
5 computation of the tax levied, assessed or payable under the local sales
6 tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and
7 sections 144.010 to 144.761, all sales of fencing materials used for
8 agricultural purposes.

9 2. The provisions of this section shall expire six years from the
10 effective date of this act.

260.546. 1. In the event that a hazardous substance release occurs for
2 which a political subdivision or volunteer fire protection association as defined
3 in section 320.300, RSMo, provides emergency services, the person having control
4 over a hazardous substance shall be liable for such reasonable [cleanup] and
5 necessary costs incurred by the political subdivision or volunteer fire protection
6 association while securing an emergency situation or cleaning up any
7 hazardous substances. Such liability includes the cost of materials[,] and
8 supplies [and contractual services] actually used to secure [an] the emergency
9 situation. The liability may also include the cost for contractual services which
10 are not routinely provided by the department or political subdivision or volunteer
11 fire protection association. Such liability shall not include the cost of normal
12 services which otherwise would have been provided. Such liability shall not
13 include budgeted administrative costs or the costs for duplicate services if

14 multiple response teams are requested by the department or political subdivision
15 unless, in the opinion of the department or political subdivision, duplication of
16 service was required to protect the public health and environment. [Such liability
17 shall be established upon receipt by] **No later than sixty days after the**
18 **completion of the cleanup of the release of a hazardous substance, the**
19 **political subdivision or volunteer fire protection association shall**
20 **submit to** the person having control of the spilled hazardous substance [of] an
21 itemized statement of costs provided by the political subdivision. **The statement**
22 **of costs shall include but not be limited to an explanation of why the**
23 **costs were reasonable and necessary. The explanation shall describe**
24 **how such costs were not duplicative, did not include costs for normal**
25 **services that would otherwise have been provided, and why contractual**
26 **services, if any, were utilized in the response to the emergency**
27 **situation.**

28 2. Full payment shall be made within thirty days of receipt of the cost
29 statement unless the person having control over the hazardous substance contests
30 the amount of the costs pursuant to this section. If the person having control
31 over the hazardous substance elects to contest the payment of such costs, [he]
32 **such person** shall file an appeal with the director within thirty days of receipt
33 of the cost statement.

34 3. Upon receipt of such an appeal, the director shall notify the parties
35 involved of the appeal and collect such evidence from the parties involved as [he]
36 **the director** deems necessary to make a determination of reasonable cleanup
37 costs. **The burden of proof shall be on the political subdivision or**
38 **volunteer fire protection district to document and justify such costs**
39 **allowed under subsection 1 of this section.** Within [thirty] sixty days of
40 notification of the appeal, the director shall notify the parties of his **or her**
41 decision. The director shall direct the person having control over a hazardous
42 substance to pay those costs [he] **the director** finds to be reasonable and
43 appropriate. The determination of the director shall become final thirty days
44 after receipt of the notice by the parties involved unless prior to such date one of
45 the involved parties files a petition for judicial review pursuant to chapter 536,
46 RSMo.

47 4. The political subdivision or volunteer fire protection association may
48 apply to the department for reimbursement from the hazardous waste fund
49 created in section 260.391 for the costs for which the person having control over

50 a hazardous substance shall be liable if the political subdivision or volunteer fire
51 protection association is able to demonstrate a need for immediate relief for such
52 costs and believes it will not receive prompt payment from the person having
53 control over a hazardous substance. When the liability owed to the political
54 subdivision or volunteer fire protection association by the person having control
55 over a hazardous substance is paid, the political subdivision or volunteer fire
56 protection association shall reimburse the department for any payment it has
57 received from the hazardous waste fund. Such reimbursement to a political
58 subdivision or volunteer fire protection association by the department shall be
59 paid back to the department by the political subdivision or volunteer fire
60 protection association within that time limit imposed by the department
61 notwithstanding failure of the person having control over a hazardous substance
62 to reimburse the political subdivision or volunteer fire protection association
63 within that time.

261.035. 1. There is hereby created in the state treasury for the use of
2 the [marketing] **agriculture business development** division of the state
3 department of agriculture a fund to be known as "The [Marketing] **Agriculture**
4 **Business Development Fund**". All moneys received by the state department of
5 agriculture for marketing development from any source within the state shall be
6 deposited in the fund.

7 2. Moneys deposited in the fund shall, upon appropriation by the general
8 assembly to the state department of agriculture, be expended by the state
9 department of agriculture for purposes of agricultural marketing development
10 and for no other purposes.

11 3. The unexpended balance in the [marketing] **agriculture business**
12 development fund at the end of the biennium shall not be transferred to the
13 ordinary revenue fund of the state treasury and accordingly shall be exempt from
14 the provisions of section 33.080, RSMo, relating to transfer of funds to the
15 ordinary revenue funds of the state by the state treasurer.

261.230. The director of the department of agriculture shall, for the use
2 of the [marketing] **agriculture business development** division of the
3 department of agriculture, develop and implement rules and regulations by
4 product category for all Missouri agricultural products included in the
5 AgriMissouri marketing program.

261.235. 1. There is hereby created in the state treasury for the use of
2 the [marketing] **agriculture business development** division of the state

3 department of agriculture a fund to be known as "The [Missouri Agricultural
4 Products Marketing Development] **AgriMissouri** Fund". All moneys received by
5 the state department of agriculture for Missouri agricultural products marketing
6 development from any source, including trademark fees, shall be deposited in the
7 fund. Moneys deposited in the fund shall, upon appropriation by the general
8 assembly to the state department of agriculture, be expended by the [marketing]
9 **agriculture business development** division of the state department of
10 agriculture for promotion of Missouri agricultural products under the
11 AgriMissouri program. The unexpended balance in the [Missouri agricultural
12 products marketing development] **AgriMissouri** fund at the end of the biennium
13 shall not be transferred to the general revenue fund of the state treasury and
14 accordingly shall be exempt from the provisions of section 33.080, RSMo, relating
15 to transfer of funds to the ordinary revenue funds of the state by the state
16 treasurer.

17 2. There is hereby created within the department of agriculture the
18 "[Citizens'] **AgriMissouri** Advisory Commission for Marketing Missouri
19 Agricultural Products". The commission shall establish guidelines, and make
20 recommendations to the director of agriculture, for the use of funds appropriated
21 by the general assembly for the [marketing] **agriculture business**
22 **development** division of the department of agriculture, and for all funds
23 collected or appropriated to the [Missouri agricultural products marketing
24 development] **AgriMissouri** fund created pursuant to subsection 1 of this
25 section. The guidelines shall focus on the promotion of the AgriMissouri
26 trademark associated with Missouri agricultural products that have been
27 approved by the general assembly, and shall advance the following objectives:

28 (1) Increasing the impact and fostering the effectiveness of local efforts
29 to promote Missouri agricultural products;

30 (2) Enabling and encouraging expanded advertising efforts for Missouri
31 agricultural products;

32 (3) Encouraging effective, high-quality advertising projects, innovative
33 marketing strategies, and the coordination of local, regional and statewide
34 marketing efforts;

35 (4) Providing training and technical assistance to cooperative-marketing
36 partners of Missouri agricultural products.

37 3. The commission may establish a fee structure for sellers electing to use
38 the AgriMissouri trademark associated with Missouri agricultural

39 products. Under the fee structure:

40 (1) A seller having gross annual sales greater than two million dollars per
41 fiscal year of Missouri agricultural products which constitute the final product of
42 a series of processes or activities shall remit to the **[marketing] agriculture**
43 **business development** division of the department of agriculture, at such times
44 and in such manner as may be prescribed, a trademark fee of one-half of one
45 percent of the aggregate amount of all of such seller's wholesale sales of products
46 carrying the AgriMissouri trademark; and

47 (2) All sellers having gross annual sales less than or equal to two million
48 dollars per fiscal year of Missouri agricultural products which constitute the final
49 product of a series of processes or activities shall, after three years of selling
50 Missouri agricultural products carrying the AgriMissouri trademark, remit to the
51 **[marketing] agriculture business development** division of the department of
52 agriculture, at such times and in such manner as may be prescribed, a trademark
53 fee of one-half of one percent of the aggregate amount of all of such seller's
54 wholesale sales of products carrying the AgriMissouri trademark.

55 All trademark fees shall be deposited to the credit of the **[Missouri agricultural**
56 **products marketing development] AgriMissouri** fund, created pursuant to this
57 section.

58 4. The **[marketing] agriculture business development** division of the
59 department of agriculture is authorized to promulgate rules consistent with the
60 guidelines and fee structure established by the commission. No rule or portion
61 of a rule shall become effective unless it has been promulgated pursuant to the
62 provisions of chapter 536, RSMo.

63 5. The commission shall consist of nine members appointed by the
64 governor with the advice and consent of the senate. One member shall be the
65 director of the **[market] agriculture business** development division of the
66 department of agriculture, or his or her representative. At least one member
67 shall be a specialist in advertising; at least one member shall be a specialist in
68 agribusiness; at least one member shall be a specialist in the retail grocery
69 business; at least one member shall be a specialist in communications; at least
70 one member shall be a specialist in product distribution; at least one member
71 shall be a family farmer with expertise in livestock farming; at least one member
72 shall be a family farmer with expertise in grain farming and at least one member
73 shall be a family farmer with expertise in organic farming. Members shall serve
74 for four-year terms, except in the first appointments three members shall be

75 appointed for terms of four years, three members shall be appointed for terms of
76 three years and three members shall be appointed for terms of two years
77 each. Any member appointed to fill a vacancy of an unexpired term shall be
78 appointed for the remainder of the term of the member causing the vacancy. The
79 governor shall appoint a chairperson of the commission, subject to ratification by
80 the commission.

81 6. Commission members shall receive no compensation but shall be
82 reimbursed for actual and necessary expenses incurred in the performance of
83 their official duties on the commission. The division of **[market] agriculture**
84 **business** development of the department of agriculture shall provide all
85 necessary staff and support services as required by the commission to hold
86 commission meetings, to maintain records of official acts and to conduct all other
87 business of the commission. The commission shall meet quarterly and at any
88 such time that it deems necessary. Meetings may be called by the chairperson
89 or by a petition signed by a majority of the members of the commission. Ten
90 days' notice shall be given in writing to such members prior to the meeting date.
91 A simple majority of the members of the commission shall be present to constitute
92 a quorum. Proxy voting shall not be permitted.

261.239. The **[marketing] agriculture business development** division
2 of the department of agriculture shall create an Internet web site for the purpose
3 of fostering the marketing of Missouri agricultural products over the Internet.

263.232. It shall be the duty of any person or persons, association of
2 persons, corporations, partnerships, the state highways and transportation
3 commission, any state department, any state agency, the county commissions, the
4 township boards, school boards, drainage boards, the governing bodies of
5 incorporated cities, railroad companies and other transportation companies or
6 their authorized agents and those supervising state-owned lands:

7 (1) To control and eradicate the spread of cut-leaved teasel (*Dipsacus*
8 *laciniatus*) and common teasel (*Dipsacus fullonum*), which are hereby designated
9 as noxious and dangerous weeds to agriculture, by methods approved by the
10 Environmental Protection Agency and in compliance with the manufacturer's
11 label instructions; [and]

12 (2) To control the spread of kudzu vine (*Pueraria lobata*), which is hereby
13 designated as a noxious and dangerous weed to agriculture, by methods approved
14 by the Environmental Protection Agency and in compliance and conformity with
15 the manufacturer's label instructions;

16 **(3) To control the spread of spotted knapweed (*Centaurea***
17 ***biebersteinii*, including all subspecies), which is hereby designated as**
18 **a noxious and dangerous weed to agriculture, by methods approved by**
19 **the Environmental Protection Agency and in compliance and**
20 **conformity with the manufacturer's label instructions; and**

21 **(4) To control the spread of *sericea lespedeza* (*Lespedeza***
22 ***cuneata*), which is hereby designated as a noxious and dangerous weed**
23 **to agriculture, by methods approved by the Environmental Protection**
24 **Agency and in compliance and conformity with the manufacturer's**
25 **label instructions.**

 265.200. The executive board of the Missouri state horticultural society
2 shall have the power and duty:

3 (1) To authorize the director to expend, within the appropriations
4 provided therefor, a designated amount of the moneys in the apple merchandising
5 fund in the enforcement of sections 265.130 and 265.140, referring to the labeling
6 of apples.

7 (2) To authorize the director to expend, within the appropriations
8 provided therefor, a reasonable amount of the moneys in the apple merchandising
9 fund in the administration of sections 265.150 to 265.180, referring to the
10 collection of levies imposed by this chapter.

11 (3) To authorize the director to apportion, within the appropriations
12 provided therefor, a reasonable amount of the moneys in the apple merchandising
13 fund to the **[marketing] agriculture business** development fund.

14 (4) To plan and to authorize the director to conduct a campaign of
15 education, advertising, publicity and sales promotion to increase the consumption
16 of Missouri apples and the director may contract for any advertising, publicity
17 and sales promotion service. To accomplish such purpose the director shall have
18 power and it shall be the duty of the director, within the appropriations provided
19 therefor, to disseminate information:

20 (a) Relating to apples and the importance thereof in preserving the public
21 health, the economy thereof in the diet of the people, and the importance thereof
22 in the nutrition of children;

23 (b) Relating to the problem of furnishing the consumer at all times with
24 a supply of good quality apples at reasonable prices;

25 (c) Relating to such other, further and additional information as shall
26 tend to promote increased consumption of Missouri apples, and as may foster a

27 better understanding and more efficient cooperation between producers, dealers
28 and the consuming public.

29 (5) To cooperate with other state, regional and national agricultural
30 organizations and may at its discretion authorize the director to expend within
31 the appropriations provided therefor moneys of the apple merchandising fund for
32 such purposes.

348.230. 1. The Missouri agricultural and small business
2 development authority, subject to appropriation, shall pay for the first
3 full year of charged interest on any applicable Missouri linked deposit
4 program loan, as provided in sections 30.750 to 30.850, RSMo. For the
5 purpose of this section, the term "applicable loan" shall mean any loan
6 made and used solely for the acquisition of dairy cows and other
7 replacement dairy females.

8 2. The Missouri agricultural and small business development
9 authority may charge a fee for the service in subsection 1 of this
10 section, not to exceed fifty dollars per individual. Revenue generated
11 from the fee shall be used to defray administrative costs.

348.235. 1. The Missouri agricultural and small business
2 development authority, subject to appropriation not to exceed fifty
3 thousand dollars, shall develop and implement dairy business planning
4 grants as provided in this section.

5 2. The Missouri agricultural and small business development
6 authority may charge an application fee for the grants developed under
7 this section, not to exceed fifty dollars per application. Revenue
8 generated from the application fee shall be used to defray the cost of
9 administering the grants.

10 3. Eligible applicants shall be existing or start-up dairy
11 operations wholly located in the state of Missouri that are at least fifty-
12 one percent owned by residents of this state.

13 4. A single grant shall not exceed five thousand dollars or
14 finance more than ninety percent of the cost of the business plan,
15 whichever is less.

16 5. Proceeds from a grant shall only be used to contract with a
17 dairy business planning professional that is approved by the Missouri
18 agricultural and small business development authority.

19 6. The Missouri agricultural and small business development
20 authority may promulgate rules establishing eligibility and award

21 **criteria under this section including, but not limited to, the following:**

22 **(1) The potential to improve the profitability, modernization, and**
23 **expansion of the dairy operation;**

24 **(2) The education, experience, and past relevant experience of**
25 **the dairy business planning professional;**

26 **(3) The qualifications, education, and experience of the dairy**
27 **owner or owners and management team;**

28 **(4) The potential for timely near-term application of the results**
29 **of the study;**

30 **(5) The potential economic benefit to the state of Missouri;**

31 **(6) Such other factors as the Missouri agricultural and small**
32 **business development authority may establish.**

33 **7. Any rule or portion of a rule, as that term is defined in section**
34 **536.010, RSMo, that is created under the authority delegated in this**
35 **section shall become effective only if it complies with and is subject to**
36 **all of the provisions of chapter 536, RSMo, and, if applicable, section**
37 **536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**
38 **and if any of the powers vested with the general assembly pursuant to**
39 **chapter 536, RSMo, to review, to delay the effective date, or to**
40 **disapprove and annul a rule are subsequently held unconstitutional,**
41 **then the grant of rulemaking authority and any rule proposed or**
42 **adopted after August 28, 2008, shall be invalid and void.**

348.430. 1. The tax credit created in this section shall be known as the
2 "Agricultural Product Utilization Contributor Tax Credit".

3 2. As used in this section, the following terms mean:

4 (1) "Authority", the agriculture and small business development authority
5 as provided in this chapter;

6 (2) "Contributor", an individual, partnership, corporation, trust, limited
7 liability company, entity or person that contributes cash funds to the authority;

8 (3) "Development facility", a facility producing either a good derived from
9 an agricultural commodity or using a process to produce a good derived from an
10 agricultural product;

11 (4) "Eligible new generation cooperative", a nonprofit cooperative
12 association formed pursuant to chapter 274, RSMo, or incorporated pursuant to
13 chapter 357, RSMo, for the purpose of operating **within this state** a
14 development facility or a renewable fuel production facility;

15 (5) "Eligible new generation processing entity", a partnership, corporation,
16 cooperative, or limited liability company organized or incorporated pursuant to
17 the laws of this state consisting of not less than twelve members, approved by the
18 authority, for the purpose of owning or operating within this state a development
19 facility or a renewable fuel production facility in which producer members:

20 (a) Hold a majority of the governance or voting rights of the entity and
21 any governing committee;

22 (b) Control the hiring and firing of management; and

23 (c) Deliver agricultural commodities or products to the entity for
24 processing, unless processing is required by multiple entities;

25 (6) "Renewable fuel production facility", a facility producing an energy
26 source which is derived from a renewable, domestically grown, organic compound
27 capable of powering machinery, including an engine or power plant, and any
28 by-product derived from such energy source.

29 3. For all tax years beginning on or after January 1, 1999, a contributor
30 who contributes funds to the authority may receive a credit against the tax or
31 estimated quarterly tax otherwise due pursuant to chapter 143, RSMo, other than
32 taxes withheld pursuant to sections 143.191 to 143.265, RSMo, chapter 148,
33 RSMo, chapter 147, RSMo, in an amount of up to one hundred percent of such
34 contribution. Tax credits claimed in a taxable year may be done so on a quarterly
35 basis and applied to the estimated quarterly tax pursuant to this subsection. If
36 a quarterly tax credit claim or series of claims contributes to causing an
37 overpayment of taxes for a taxable year, such overpayment shall not be refunded
38 but shall be applied to the next taxable year. The awarding of such credit shall
39 be at the approval of the authority, based on the least amount of credits
40 necessary to provide incentive for the contributions. A contributor that receives
41 tax credits for a contribution to the authority shall receive no other consideration
42 or compensation for such contribution, other than a federal tax deduction, if
43 applicable, and goodwill.

44 4. A contributor shall submit to the authority an application for the tax
45 credit authorized by this section on a form provided by the authority. If the
46 contributor meets all criteria prescribed by this section and the authority, the
47 authority shall issue a tax credit certificate in the appropriate amount. Tax
48 credits issued pursuant to this section may be claimed in the taxable year in
49 which the contributor contributes funds to the authority. For all fiscal years
50 beginning on or after July 1, 2004, tax credits allowed pursuant to this section

51 may be carried back to any of the contributor's three prior tax years and may be
52 carried forward to any of the contributor's five subsequent taxable years. Tax
53 credits issued pursuant to this section may be assigned, transferred or sold and
54 the new owner of the tax credit shall have the same rights in the credit as the
55 contributor. Whenever a certificate of tax credit is assigned, transferred, sold or
56 otherwise conveyed, a notarized endorsement shall be filed with the authority
57 specifying the name and address of the new owner of the tax credit or the value
58 of the credit.

59 5. The funds derived from contributions in this section shall be used for
60 financial assistance or technical assistance for the purposes provided in section
61 348.407 to rural agricultural business concepts as approved by the authority. The
62 authority may provide or facilitate loans, equity investments, or guaranteed loans
63 for rural agricultural business concepts, but limited to two million dollars per
64 project or the net state economic impact, whichever is less. Loans, equity
65 investments or guaranteed loans may only be provided to feasible projects, and
66 for an amount that is the least amount necessary to cause the project to occur, as
67 determined by the authority. The authority may structure the loans, equity
68 investments or guaranteed loans in a way that facilitates the project, but also
69 provides for a compensatory return on investment or loan payment to the
70 authority, based on the risk of the project.

71 6. In any given year, at least ten percent of the funds granted to rural
72 agricultural business concepts shall be awarded to grant requests of twenty-five
73 thousand dollars or less. No single rural agricultural business concept shall
74 receive more than two hundred thousand dollars in grant awards from the
75 authority. Agricultural businesses owned by minority members or women shall
76 be given consideration in the allocation of funds.

348.432. 1. The tax credit created in this section shall be known as the
2 "New Generation Cooperative Incentive Tax Credit".

3 2. As used in this section, the following terms mean:

4 (1) "Authority", the agriculture and small business development authority
5 as provided in this chapter;

6 (2) "Development facility", a facility producing either a good derived from
7 an agricultural commodity or using a process to produce a good derived from an
8 agricultural product;

9 (3) "Eligible new generation cooperative", a nonprofit cooperative
10 association formed pursuant to chapter 274, RSMo, or incorporated pursuant to

11 chapter 357, RSMo, for the purpose of operating **within this state** a
12 development facility or a renewable fuel production facility and approved by the
13 authority;

14 (4) "Eligible new generation processing entity", a partnership, corporation,
15 cooperative, or limited liability company organized or incorporated pursuant to
16 the laws of this state consisting of not less than twelve members, approved by the
17 authority, for the purpose of owning or operating within this state a development
18 facility or a renewable fuel production facility in which producer members:

19 (a) Hold a majority of the governance or voting rights of the entity and
20 any governing committee;

21 (b) Control the hiring and firing of management; and

22 (c) Deliver agricultural commodities or products to the entity for
23 processing, unless processing is required by multiple entities;

24 (5) "Employee-qualified capital project", an eligible new generation
25 cooperative with capital costs greater than fifteen million dollars which will
26 employ at least sixty employees;

27 (6) "Large capital project", an eligible new generation cooperative with
28 capital costs greater than one million dollars;

29 (7) "Producer member", a person, partnership, corporation, trust or limited
30 liability company whose main purpose is agricultural production that invests cash
31 funds to an eligible new generation cooperative or eligible new generation
32 processing entity;

33 (8) "Renewable fuel production facility", a facility producing an energy
34 source which is derived from a renewable, domestically grown, organic compound
35 capable of powering machinery, including an engine or power plant, and any
36 by-product derived from such energy source;

37 (9) "Small capital project", an eligible new generation cooperative with
38 capital costs of no more than one million dollars.

39 3. Beginning tax year 1999, and ending December 31, 2002, any producer
40 member who invests cash funds in an eligible new generation cooperative or
41 eligible new generation processing entity may receive a credit against the tax or
42 estimated quarterly tax otherwise due pursuant to chapter 143, RSMo, other than
43 taxes withheld pursuant to sections 143.191 to 143.265, RSMo, or chapter 148,
44 RSMo, chapter 147, RSMo, in an amount equal to the lesser of fifty percent of
45 such producer member's investment or fifteen thousand dollars.

46 4. For all tax years beginning on or after January 1, 2003, any producer

47 member who invests cash funds in an eligible new generation cooperative or
48 eligible new generation processing entity may receive a credit against the tax or
49 estimated quarterly tax otherwise due pursuant to chapter 143, RSMo, other than
50 taxes withheld pursuant to sections 143.191 to 143.265, RSMo, chapter 147,
51 RSMo, or chapter 148, RSMo, in an amount equal to the lesser of fifty percent of
52 such producer member's investment or fifteen thousand dollars. Tax credits
53 claimed in a taxable year may be done so on a quarterly basis and applied to the
54 estimated quarterly tax pursuant to subsection 3 of this section. If a quarterly
55 tax credit claim or series of claims contributes to causing an overpayment of taxes
56 for a taxable year, such overpayment shall not be refunded but shall be applied
57 to the next taxable year.

58 5. A producer member shall submit to the authority an application for the
59 tax credit authorized by this section on a form provided by the authority. If the
60 producer member meets all criteria prescribed by this section and is approved by
61 the authority, the authority shall issue a tax credit certificate in the appropriate
62 amount. Tax credits issued pursuant to this section may be carried back to any
63 of the producer member's three prior taxable years and carried forward to any of
64 the producer member's five subsequent taxable years regardless of the type of tax
65 liability to which such credits are applied as authorized pursuant to subsection
66 3 of this section. Tax credits issued pursuant to this section may be assigned,
67 transferred, sold or otherwise conveyed and the new owner of the tax credit shall
68 have the same rights in the credit as the producer member. Whenever a
69 certificate of tax credit is assigned, transferred, sold or otherwise conveyed, a
70 notarized endorsement shall be filed with the authority specifying the name and
71 address of the new owner of the tax credit or the value of the credit.

72 6. Ten percent of the tax credits authorized pursuant to this section
73 initially shall be offered in any fiscal year to small capital projects. If any portion
74 of the ten percent of tax credits offered to small capital costs projects is unused
75 in any calendar year, then the unused portion of tax credits may be offered to
76 employee-qualified capital projects and large capital projects. If the authority
77 receives more applications for tax credits for small capital projects than tax
78 credits are authorized therefor, then the authority, by rule, shall determine the
79 method of distribution of tax credits authorized for small capital projects.

80 7. Ninety percent of the tax credits authorized pursuant to this section
81 initially shall be offered in any fiscal year to employee-qualified capital projects
82 and large capital projects. If any portion of the ninety percent of tax credits

83 offered to employee-qualified capital projects and large capital costs projects is
84 unused in any fiscal year, then the unused portion of tax credits may be offered
85 to small capital projects. The maximum tax credit allowed per employee-qualified
86 capital project is three million dollars and the maximum tax credit allowed per
87 large capital project is one million five hundred thousand dollars. If the
88 authority approves the maximum tax credit allowed for any employee-qualified
89 capital project or any large capital project, then the authority, by rule, shall
90 determine the method of distribution of such maximum tax credit. In addition,
91 if the authority receives more tax credit applications for employee-qualified
92 capital projects and large capital projects than the amount of tax credits
93 authorized therefor, then the authority, by rule, shall determine the method of
94 distribution of tax credits authorized for employee-qualified capital projects and
95 large capital projects.

348.505. 1. As used in this section, "state tax liability", any state tax
2 liability incurred by a taxpayer under the provisions of chapters 143, 147, and
3 148, RSMo, exclusive of the provisions relating to the withholding of tax as
4 provided for in sections 143.191 to 143.265, RSMo, and related provisions.

5 2. Any eligible lender under the family farm livestock loan program under
6 section 348.500 shall be entitled to receive a tax credit equal to one hundred
7 percent of the amount of interest waived by the lender under section 348.500 on
8 a qualifying loan for the first year of the loan only. The tax credit shall be
9 evidenced by a tax credit certificate issued by the agricultural and small business
10 development authority and may be used to satisfy the state tax liability of the
11 owner of such certificate that becomes due in the tax year in which the interest
12 on a qualified loan is waived by the lender under section 348.500. No lender may
13 receive a tax credit under this section unless such person presents a tax credit
14 certificate to the department of revenue for payment of such state tax
15 liability. The amount of the tax credits that may be issued to all eligible lenders
16 claiming tax credits authorized in this section in a fiscal year shall not exceed
17 [one hundred fifty thousand dollars] **one million**.

18 3. The agricultural and small business development authority shall be
19 responsible for the administration and issuance of the certificate of tax credits
20 authorized by this section. The authority shall issue a certificate of tax credit at
21 the request of any lender. Each request shall include a true copy of the loan
22 documents, the name of the lender who is to receive a certificate of tax credit, the
23 type of state tax liability against which the tax credit is to be used, and the

24 amount of the certificate of tax credit to be issued to the lender based on the
25 interest waived by the lender under section 348.500 on the loan for the first year.

26 4. The Missouri department of revenue shall accept a certificate of tax
27 credit in lieu of other payment in such amount as is equal to the lesser of the
28 amount of the tax or the remaining unused amount of the credit as indicated on
29 the certificate of tax credit, and shall indicate on the certificate of tax credit the
30 amount of tax thereby paid and the date of such payment.

31 5. The following provisions shall apply to tax credits authorized under
32 this section:

33 (1) Tax credits claimed in a taxable year may be claimed on a quarterly
34 basis and applied to the estimated quarterly tax of the lender;

35 (2) Any amount of tax credit which exceeds the tax due, including any
36 estimated quarterly taxes paid by the lender under subdivision (1) of this
37 subsection which results in an overpayment of taxes for a taxable year, shall not
38 be refunded but may be carried over to any subsequent taxable year, not to
39 exceed a total of three years for which a tax credit may be taken for a qualified
40 family farm livestock loan;

41 (3) Notwithstanding any provision of law to the contrary, a lender may
42 assign, transfer or sell tax credits authorized under this section, with the new
43 owner of the tax credit receiving the same rights in the tax credit as the
44 lender. For any tax credits assigned, transferred, sold, or otherwise conveyed, a
45 notarized endorsement shall be filed by the lender with the authority specifying
46 the name and address of the new owner of the tax credit and the value of such
47 tax credit; and

48 (4) Notwithstanding any other provision of this section to the contrary,
49 any commercial bank may use tax credits created under this section as provided
50 in section 148.064, RSMo, and receive a net tax credit against taxes actually paid
51 in the amount of the first year's interest on loans made under this section. If
52 such first year tax credits reduce taxes due as provided in section 148.064, RSMo,
53 to zero, the remaining tax credits may be carried over as otherwise provided in
54 this section and utilized as provided in section 148.064, RSMo, in subsequent
55 years.

414.012. As used in this chapter, the following words mean:

2 (1) "American Society for Testing and Materials (ASTM)", a scientific and
3 technical organization formed for the development of standards on characteristics
4 and performance of materials, products, systems, and services, and the promotion

5 of related knowledge;

6 (2) **"Automotive lubricants", any material interposed between two**
7 **surfaces that reduces the friction or wear between them;**

8 (3) "Aviation turbine fuel (jet fuel)", a refined oil intended for use as a
9 source of energy for jet aircraft, the classification of which shall be defined by the
10 American Society for Testing and Materials (ASTM);

11 [(3)] (4) "Barrel", for the purposes of sections 414.012 to 414.152, fifty
12 gallons shall constitute a barrel;

13 [(4)] (5) "Closed container", a container so sealed by means of a lid or
14 other device that neither liquid nor vapor will escape from it at ordinary
15 temperatures;

16 [(5)] (6) "Combustible liquid", those liquids as defined by the most
17 current issue of Booklet 30 of the National Fire Protection Association entitled
18 Flammable and Combustible Liquid Code;

19 [(6)] (7) "Container", any vessel of sixty United States gallons or less
20 capacity used for transporting or storing flammable or combustible liquids;

21 [(7)] (8) "Department", the Missouri state department of agriculture;

22 [(8)] (9) "Diesel fuel", refined oils commonly used in internal combustion
23 engines where ignited by pressure and not by electric spark, the classification of
24 which shall be defined by the American Society for Testing and Materials
25 (ASTM);

26 [(9)] (10) "Director", the director of agriculture of the Missouri state
27 department of agriculture or his delegated representative;

28 [(10)] (11) "Flammable liquids", those liquids as defined by the most
29 current issue of Booklet 30 of the National Fire Protection Association entitled
30 Flammable and Combustible Liquid Code;

31 [(11)] (12) "Gasoline", a volatile mixture of liquid hydrocarbons generally
32 containing small amounts of additives suitable for use as a fuel in spark-ignition
33 internal combustion engines;

34 [(12)] (13) "Gasoline-alcohol blend", a blend consisting primarily of
35 gasoline and a substantial amount of one or more alcohols;

36 [(13)] (14) "Heating oil (fuel oil)", a refined oil intended for use as a
37 furnace oil, range oil or fuel oil for heating or cooking purposes;

38 [(14)] (15) "Kerosene", a refined oil intended for heating or illuminating
39 use, the classification of which shall be defined by the American Society for
40 Testing and Materials (ASTM);

41 [(15)] **(16)** "Motor fuel", any liquid product used for the generation of
42 power in an internal combustion engine;

43 [(16)] **(17)** "Person", both plural and singular, as the case demands, and
44 includes individuals, partnerships, corporations, companies, firms, societies, and
45 associations;

46 **(18) "Petroleum products", products obtained from distilling and**
47 **processing of crude oil petroleum, unfinished oils, recycled oils, natural**
48 **gas liquids, refinery blend stocks, and other hydrocarbon compounds.**

 414.032. 1. All kerosene, diesel fuel, heating oil, aviation turbine fuel,
2 gasoline, gasoline-alcohol blends [and], other motor fuels, **and automotive**
3 **lubricants** shall meet the requirements in the annual book of ASTM standards
4 and supplements thereto. **When no ASTM standard exists, the department**
5 **may adopt other generally recognized national consensus standards by**
6 **rule.** The director may promulgate rules and regulations on the **posting of**
7 **prices at the gas station or convenience store**, labeling, standards for, and
8 identity of [motor] fuels [and heating oils], **petroleum products, and**
9 **automotive lubricants.**

10 2. The director may inspect gasoline, gasoline-alcohol blends or other
11 motor fuels to insure that these fuels conform to advertised grade and octane. [In
12 no event shall the penalty for a first violation of this section exceed a written
13 reprimand] **Unless it is necessary to protect the public's health or safety,**
14 **the penalty for a first violation of this section shall not exceed a**
15 **written reprimand.**

 414.042. 1. When offered for sale or when used in this state, kerosene,
2 diesel fuel, heating oil, aviation turbine fuel, gasoline, gasoline-alcohol blends,
3 and other motor fuels shall be tested and meet the requirements as provided in
4 this chapter. Every dealer, distributor, producer or compounder of such oil or fuel
5 shall immediately upon request make available to the director a sample of
6 gasoline, gasoline-alcohol blends, diesel fuel, heating oil, kerosene, aviation
7 turbine fuel, [and] other motor fuels, **and automotive lubricants** at his own
8 expense. The director shall inspect and test all requested samples for compliance
9 with the provisions of this chapter.

10 2. The director shall not be required to make a complete analysis of all
11 samples tested pursuant to subsection 1 of this section.

12 3. If it is demonstrated that some impurity or imperfection exists in the
13 sampled product to render it unfit for its intended purposes, the director may

14 reject the product for such purposes by issuing a stop-sale order.

414.052. 1. All premises including bulk storage installations, terminals,
2 dispensing or distributing facilities, equipment, appliances or devices utilized for
3 the sale of products regulated by sections 414.012 to 414.152 shall be kept in such
4 condition as to be safe from fire and explosion and not likely to cause injury to
5 adjoining property or to the public.

6 2. The director shall have access during normal business hours to all
7 places where motor fuels **and automotive lubricants** are marketed for the
8 purposes of examination, inspection, taking of samples and investigation. If such
9 access shall be refused by the owner or agent or other persons leasing the same,
10 the director or his agent may obtain an administrative search warrant from a
11 court of competent jurisdiction.

12 3. At least every six months, the director shall inspect and examine all
13 premises in this state at or on which gasoline, gasoline-alcohol blends, diesel fuel,
14 heating oil, kerosene and aviation turbine fuel is kept and sold at retail, provided
15 that sales at such premises shall aggregate on an average two hundred gallons
16 or more per month, except marine installations, which shall be tested and
17 inspected at least once per year.

18 4. Failure by any owner or operator of any fuel storage or dispensing
19 system used for the sale of petroleum products to remedy any deficit or condition
20 which is or may constitute a fire or safety hazard to adjoining property or to the
21 public may be reason for the director to issue a stop use order on that portion of
22 the fuel storage or dispensing system which constitutes the fire or safety
23 hazard. The order shall remain in effect until such time as the deficit or
24 condition is corrected. An inspection shall be performed by the director or his
25 authorized representative within one working day of notification that the deficit
26 or condition has been corrected.

27 5. Any owner or operator of any fuel storage or dispensing system used
28 for the sale of petroleum products aggrieved by a stop use order, may within
29 seventy-two hours after issuance of such order, appeal to the director for an
30 informal hearing to explain the facts. The hearing shall be held within two
31 working days of the receipt of the appeal, with a determination of such findings
32 by the director within twenty-four hours of the hearing. Any owner or operator
33 aggrieved by a determination of the director may appeal to the circuit court of the
34 county in which the owner or operator resides.

414.112. 1. No person shall store, sell, expose for sale, or offer for sale,

2 gasoline, diesel fuel, heating oil, kerosene, aviation turbine fuel, gasoline-alcohol
3 blends [or], other motor fuels, **or automotive lubricants** so as to deceive or
4 tend to deceive the purchaser as to the nature, quality, and identity of the
5 product so sold or offered for sale, or under any name whatsoever except the true
6 trade name thereof.

7 2. No person shall store, sell, expose for sale, or offer for sale, any
8 reclaimed motor or lubricating oils; except that all drums, cans, or other
9 containers, holding such reclaimed motor or lubricating oils before being offered
10 for sale, shall have imprinted thereon, in contrasting color with the other surface
11 of the container, in letters not less than one-half inch in height, wording
12 specifying "reclaimed" motor or lubricating oil.

13 3. No person shall hinder or obstruct the director, or his delegated
14 representative, in the reasonable performance of his duties.

414.122. Every person engaged in business in this state as a common
2 carrier or marketer of fuels or petroleum products shall exhibit upon demand by
3 the director of agriculture or the director of revenue, books, papers, and records
4 showing any shipment in, into or out of this state of gasoline, diesel fuel, heating
5 oil, kerosene [or], aviation turbine fuel, **or automotive lubricants**, and also
6 any books, papers, and records showing the origin or destination of such
7 shipments, including the names and addresses of the consignors and consignees
8 of such shipments.

414.420. 1. **As used in this section, the term "alternative fuel"**
2 **shall have the same meaning as in section 414.400.**

3 2. There is hereby created the "Missouri [Ethanol and Other Renewable
4 Fuel Sources] **Alternative Fuels** Commission" composed of [seven] **nine**
5 members, including two members of the senate of different political parties
6 appointed by the president pro tem of the senate, two members of the house of
7 representatives of different political parties appointed by the speaker of the
8 house, and [three] **five** other persons appointed by the governor, with the advice
9 and consent of the senate. The members appointed by the governor [may include,
10 but are not limited to,] **shall be** persons engaged in [the ethanol production
11 industry] **industries that produce alternative fuels, wholesale alternative**
12 **fuels, or retail alternative fuels**, and no more than two of such members shall
13 **represent an alternative fuel producer, retailer, or wholesaler and no**
14 **more than three of such members shall** be of the same political party. The
15 members appointed by the governor shall be appointed for a term of four years[,]

16 except that of the first members appointed, one shall serve for a term of two
17 years, one shall serve for a term of three years, and one shall serve for a term of
18 four years]. Vacancies in the membership of the commission shall be filled in the
19 same manner as the original appointments. The commission shall elect a member
20 of its own group as chairman at the first meeting, which shall be called by the
21 governor. The commission shall meet at least four times in a calendar year at the
22 call of the chairman. [The commission shall promote the continued production
23 of ethanol and the continued usage of ethanol and fuel ethanol blends, as defined
24 in section 142.027, RSMo, and the production and usage of other renewable fuel
25 sources, in this state. The commission shall report to each regular session of the
26 general assembly its recommendations for legislation in the field of the promotion
27 of the ethanol industry and related subjects in this state.] Members of the
28 commission shall serve without compensation but shall be reimbursed for actual
29 and necessary expenses incurred in the performance of their duties.

30 **3. The commission shall:**

31 **(1) Make recommendations to the governor and general assembly**
32 **on changes to state law to facilitate the sale and distribution of**
33 **alternative fuels and alternative fuel vehicles;**

34 **(2) Promote the development, sale, distribution, and consumption**
35 **of alternative fuels;**

36 **(3) Promote the development and use of alternative fuel vehicles**
37 **and technology that will enhance the use of alternative and renewable**
38 **transportation fuels;**

39 **(4) Educate consumers about alternative fuels, including but not**
40 **limited to ethanol and biodiesel;**

41 **(5) Develop a long-range plan for the state to reduce**
42 **consumption of petroleum fuels; and**

43 **(6) Submit an annual report to the governor and the general**
44 **assembly.**

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